

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CROMPTON GREAVES, LTD., §
§
Plaintiff, §
§
v. § CIVIL ACTION NO. H-08-1774
§
SHIPPERS STEVEDORING COMPANY, §
§
Defendant. §

MEMORANDUM ORDER

Crompton Greaves and Shippers Stevedoring sent a letter asking for clarification of this court's rulings on the parties' summary judgment motions, (Docket Entry No. 116). The parties disagree as to whether this court ruled on whether Shippers Stevedoring may assert the COGSA defenses in the bill of lading provided by the ocean carrier, National Shipping Company of Saudi Arabia ("NSCSA"). Shippers Stevedoring had moved for summary judgment that Crompton Greaves's claims were barred under COGSA. This court denied the motion because there was a fact issue as to whether Shippers Stevedoring was an agent of NSCSA, who was identified on the bill of lading. Crompton Greaves argues that this court found that Shippers Stevedoring could not assert COGSA defenses. Shippers Stevedoring argues that this court did not rule as to whether it could assert defenses under COGSA, but merely found a fact issue on which evidence could be presented at trial.

Shippers Stevedoring is correct. The only motion asking this court to determine whether Shippers Stevedoring could assert COGSA defenses under the bill of lading was Shippers Stevedoring's motion for summary judgment. This court denied that motion because Crompton

Greaves had shown the presence of disputed fact issues material to determining whether Shippers Stevedoring, who was not identified on the bill of lading, could assert COGSA defenses under it. This court noted that Shippers Stevedoring did not produce or identify any evidence showing that it was NSCSA's agent, and that the evidence the parties identified suggested that Shippers Stevedoring was Alomex's agent, not NSCSA's. Crompton Greaves did not, however, move for summary judgment that Shippers Stevedoring could not claim COGSA defenses, and this court did not decide that Shippers Stevedoring was precluded from doing so.

SIGNED on July 29, 2011, at Houston, Texas.


Lee H. Rosenthal
United States District Judge